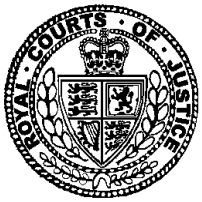

Neutral Citation Number: [2021] EWHC 468 (QB)

Case No: QB-2020-001553

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 5 March 2021

Before:

RICHARD SPEARMAN Q.C.
(Sitting as a Deputy Judge of the Queen's Bench Division)

- -

Between :

MARTIN GLENN	**Claimant**
- and -	
CRAIG KLINE	**Defendant**

- -
- -

Alexandra Marzec (instructed by **Farrer & Co LLP**) for the **Claimant**
The **Defendant** did not appear and was not represented

Hearing date: 9 February 2021

- -

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by way of e-mail and by release to Bailii. The date and time for hand down will be deemed to be 10:30am on Friday, 5 March 2021.

Richard Spearman Q.C.:

Introduction and nature of the hearing

1. This is a remedies hearing in a claim for libel and harassment, brought by the Claimant, Martin Richard Glenn, a former Chief Executive Officer of The Football Association ("the FA"), in respect of a long series of publications, principally posts on Twitter, which began in November 2018 and ended in June 2020. The Claimant was represented at the hearing, as he has been throughout these proceedings, by Alexandra Marzec. I am grateful to Ms Marzec for her assistance, which included drawing to my attention some potential countervailing arguments, for example involving reliance on Article 10, which might be available to the Defendant, Craig Kline, in relation to some of the relief which the Claimant sought before me. This was relevant because the Defendant did not appear and was not represented at the hearing.

2. It is clear from a number of emails which were available at the hearing that the Defendant was aware of when it was to take place and decided not to participate. In an email containing 15 numbered paragraphs dated 8 February 2021, he explained that he was not prepared for the hearing as he had been *"overwhelmed"* by various matters. He asked for time to *"make use of [his] legal rights"*, and requested an adjournment to file an application to set aside the judgment of Nicklin J which I refer to below, and *"get a hearing on the merits"*. He asserted that all *"[his] reporting on the disputed matters [is] accurate and true"*; expressed a concern that his *"opponents"* would *"try to force words into my mouth, falsely, such that my allegations are withdrawn or said to be false"*; and asked that *"no Order be fashioned so as to force me to say something false, such as withdrawing my allegations"* and that *"the Order allow me some opportunity to seek a variance"*.

3. The hearing began at 2pm on 9 February 2021, and was conducted remotely using MS Teams. By an email dated 9 February 2021, which was sent in response to an email from the Court notifying all participants of the details of the hearing, the Defendant wrote: *"Apologies that I am not represented nor prepared for this hearing. In order to save costs I will decline attendance so long as that does not offend the Court"*.

4. These communications have to be viewed in the context of the events giving rise to these proceedings, the history of these proceedings (including the hearing before Nicklin J on 13 November 2020 and the Order of Nicklin J of 25 November 2020 ("the Judgment Order")), and the engagement (or lack of engagement) of the Defendant in these proceedings both before and since the Judgment Order was made.

5. As a result of the Claimant's successful application before Nicklin J for judgment in default of Acknowledgment of Service, and in accordance with the Judgment Order, it fell to me to determine (1) the level of damages, (2) the Claimant's application for an order, pursuant to s12 of the Defamation Act 2013, that the Defendant should publish an agreed summary of the judgment of the Court, and (3) the costs of the claim. In accordance with the Judgment Order, (a) the Claimant was directed to file and serve any evidence relevant to the assessment of damages by 4.30pm on 18 December 2020, (b) the Defendant was directed to file and serve any evidence in answer to the Claimant's evidence by 4.30pm on 22 January 2021, (c) the Claimant was directed to file and serve a bundle for the assessment of damages hearing together with a skeleton argument at least 7 days prior to the hearing, and (d) the Defendant was directed to

file and serve any skeleton argument in response 2 working days before the assessment of damages hearing. The Claimant complied with all of those directions. The Defendant did not comply with any of them.

6. Further, by the Judgment Order the Defendant was ordered to pay the costs of the Claimant's application for judgment in default of Acknowledgment of Service. Those costs were summarily assessed in the sum of £25,000, and were ordered to be paid by the Defendant by 4.30pm on 18 December 2020. However, the Judgment Order further provided that if, by 4.30pm on 11 December 2020, the Defendant issued, filed and served an Application Notice seeking to set aside the judgment in default granted by paragraph 2 of that Order, then the order for payment of those costs should be stayed until that application had been heard and determined. The Defendant has neither issued any application to set aside the default judgment nor paid all or any part of that sum of £25,000. Accordingly, it appears that the Defendant's lack of engagement in these proceedings, which Nicklin J commented on, has continued down to the present time.

7. In addition to the three matters which came before me pursuant to the Judgment Order, by application notice dated 21 December 2020, the Claimant sought permission to amend the Claim Form pursuant to CPR 17.1(2)(b) to increase the upper limit of the amount claimed in these proceedings from £25,000 to £100,000. That application summarised the correspondence relating to this issue. This included a letter sent by the Claimant's solicitors on 17 December 2020 stating that, if the Defendant did not respond by the close of business on 18 December 2020, the Claimant would apply to the Court for permission to amend the Claim Form; and included also the explanation that it was proposed that this application would be heard at the start of the hearing to assess damages. The reasons for seeking permission were set out in §47 of the Claimant's witness statement for this hearing dated 17 December 2020, which had already been served on the Defendant in accordance with the Judgment Order, as follows:

> "When I first commenced these proceedings, I limited the amount claimed on the Claim Form to £25,000. The motivation for these proceedings has never been financial and so I elected to keep the relevant Court fee at a lower level despite the fact I was aware that the level of damages might be considerably higher. However, since the Claim Form was issued, Mr Kline has continued to exhibit contempt for my rights and feelings, and an unwillingness to cease his actions. I have therefore come to the conclusion that it is important that the damages award is sufficiently substantial in order to mark the gravity of the wrong done to me and properly to vindicate my reputation, as well as to compensate me for damage to my reputation and feelings. I need to be able to point to the size of the damages award should I ever need to explain the matter in future, as indicating that these serious allegations were without any foundation. I therefore respectfully ask the Court to grant me permission to amend my Claim Form to increase the damages claimed to £100,000. If permission is granted, I will undertake to pay the additional court fee appropriate to the sum claimed."

8. The Defendant attended the hearing before Nicklin J on 13 December 2020. He applied for an adjournment (which was refused). The Defendant subsequently gave permanent undertakings to the Court (1) not to publish or cause to be published all or any of the allegations set out in Schedule 2 to the Judgment Order, or any similar allegations, and (2) not to pursue any conduct which amounts to harassment of the Claimant by publishing or causing to be published any derogatory or defamatory allegations to the same or similar effect as all or any of those allegations. The content of the allegations which are covered by those undertakings reflects the breadth and the manifest seriousness of the Claimant's grounds for seeking relief against the Defendant. The allegations covered by those permanent undertakings are:

"1. The Claimant used his role as a key regulator in football actively to protect, facilitate and cover up fraud and money laundering within football, which was carried out by organised crime networks using football recruitment networks.

2. The Claimant is aware of fraud and criminal activity in the football industry, but rather than attempting to stop it actively facilitates that criminal activity.

3. The Claimant:

a. corruptly facilitated and enabled criminal activity within football; and

b. sought to protect crime rings and to punish whistleblowers including the Defendant; specifically, when the Defendant had rightly denounced him as a criminal, the Claimant had tried to silence the Defendant with threats of legal action; and

c. only resigned from being CEO of The FA in order to avoid the Defendant exposing his (the Claimant's) guilt to investigators looking into his corrupt activities.

4. The Claimant is part of an international criminal conspiracy that permits organised crime to run English football, and to cover up child abuse, racism, fraud, money laundering, misogyny and fraudulent science; and that he delayed his departure date from The FA in order to ensure that his corruption was covered up.

5. The Claimant is a criminal who has enabled fraud and has negotiated a corrupt deal to pay players large bonuses.

6. The Claimant helped to facilitate criminal money laundering by Will Salthouse, a football agent representing Harry Kane.

7. The Claimant protects or covers up fraud and money laundering in football and, in order to protect this criminal activity, ensures that investigations into racism and child abuse in football are shut down.

8. The Claimant:

a. ensures that paedophile rings and racists can freely operate within football, by using his position actively to protect them; and/or

b. is a criminal who accepts bribes from other criminals to cover up fraud, child endangerment, racism, money laundering and corruption; and has also accepted a bribe to sell off Wembley Stadium to criminals at half-price; and/or

c. conspired and worked closely with money launderers within football; and/or

d. for years stopped the Defendant reporting on his (the Claimant's) criminal activities; and/or

e. resigned the day after the Defendant had a meeting with The FA in order to prevent the truth as to his (the Claimant's) criminal activities coming out; and/or

f. instructed his solicitors to threaten the Defendant with baseless legal action in order to prevent the Defendant revealing the truth about him; and/or

g. has made these threats against the Defendant despite knowing that he (the Claimant) will never in fact sue because he does not want a court to investigate his criminal activities.

9. The Claimant is a proven criminal who:

a. protects and covers up paedophile rings operating within the upper circles of the management of football;

b. pushed through a fraudulent sale of Wembley stadium;

c. conspired with organised crime groups to promote corruption, health science fraud, racism, child abuse, paedophilia, and violence in football;

d. deliberately silenced whistleblowers, including the Defendant, who might have revealed his involvement in criminal activities; and

e. as a result of his paedophile sympathies, is not a safe person to work with children.

10. The Claimant has used his solicitors to try to gag the Defendant and prevent him from disclosing the Claimant's fraudulent deal involving Wembley stadium.

11. The Claimant was involved in a conspiracy with the members of the Department of Culture, Media and Sport to facilitate criminal activities."

9. Nicklin J explained his reasons for making the Judgment Order in a judgment which he handed down on 25 November 2020. I am fortunate to be able to rely on the exposition of the background and of various aspects of the claim which is contained in that judgment, some of which I state below substantially in the words of Nicklin J.

10. The reasons given by Nicklin J for refusing the Defendant's application for an adjournment on 13 November 2020 and for proceeding to make the Judgment Order (having considered all the materials and arguments which were before him on that occasion) applied, in my judgment, with equal if not greater force to the hearing before me. I was entirely unpersuaded that the Defendant could not and should not have participated in the hearing before me, just as he was able to participate in the hearing before Nicklin J. In essence, as discussed further below, the Defendant

taunted the Claimant to sue him if he dared; he then proceeded to do nothing to defend the claim on its merits; and he has continued at all times to assert that everything that he has published is true and accurate and that he wants a hearing on the merits, while at the same time he has in fact done nothing to support either assertion. In addition, I considered that I could and should take into account the Defendant's acts and omissions following the making of the Judgment Order, which I have summarised above, and which included a failure to pay all or any part of the sum of £25,000 which Nicklin J ordered him to pay in respect of costs.

11. For these reasons, I reached the clear conclusion that the Defendant's application for an adjournment of the hearing before me should be refused, and that I should proceed to decide the matters which fell to be decided at that hearing.

12. At the same time, however, I paid careful regard to the points which the Defendant had raised in his emails referred to above. In addition, in the light of the provisions of CPR 39.3 and the Human Rights Act 1998, in order to safeguard against the risk of injustice to the Defendant, and in spite of the prospect that this might result in these proceedings being further prolonged and in the Claimant being required to incur further costs which may not be recoverable from the Defendant, I indicated at the hearing that I would proceed in the absence of the Defendant on the basis that any Order that I made should include provisions which reflect CPR 39.3(3)-(5):

> "(3) Where a party does not attend and the court gives judgment or makes an order against him, the party who failed to attend may apply for the judgment or order to be set aside.
>
> (4) An application under paragraph (2) or paragraph (3) must be supported by evidence.
>
> (5) Where an application is made under paragraph … (3) by a party who failed to attend the trial, the court may grant the application only if the applicant –
>
> (a) acted promptly when he found out that the court had exercised its power to strike out or to enter judgment or make an order against him;
>
> (b) had a good reason for not attending the trial; and
>
> (c) has a reasonable prospect of success at the trial."

13. I was not addressed as to whether section 12 of the Human Rights Act 1998 applied to the hearing before me, on the basis that the Claimant was seeking relief which, if granted, would affect the exercise of the Defendant's right to freedom of expression. However, it seemed to me at least arguable that it did apply, and, accordingly, that section 12(2) was in point:

> "If the person against whom the application for relief is made ("the respondent") is neither present nor represented, no such relief is to be granted unless the court is satisfied –

> (a) that the applicant has taken all practicable steps to notify the respondent; or
>
> (b) that there are compelling reasons why the respondent should not be notified."

14. On this basis, the approach which I adopted accorded with that indicated by Warby J (as he then was) in *Pirtek (UK) Limited v Robert Jackson* [2017] EWHC 2834 (QB) at [20]:

> "I took a two-stage approach, considering (1) whether the defendant had received proper notice of the hearing and the matters to be considered at the hearing; (2) if so, whether the available evidence as to the reasons for the litigant's non-appearance supplied a reason for adjourning the hearing. I considered it necessary to bear in mind that the effect of s.12(2) is to prohibit the Court from granting relief that 'if granted, might affect the exercise of the Convention right to freedom of expression' unless the respondent is present or represented or the Court is satisfied that '(a) the applicant has taken all reasonable steps to notify the respondent; or (b) that there are compelling reasons why the respondent should not be notified'."

15. I should also mention that by email to the Court and the Defendant dated 5 February 2021, the Claimant's solicitors, entirely properly, drew attention to the following facts: one of my daughters works for that firm, but in the private client department (as opposed to media litigation), and she has had no involvement whatsoever with this case; and, further, the firm has instructed me in the past. They referred to the guidance as to the circumstances in which a judge should recuse himself or herself to be gathered from *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451, *Porter v Magill* [2002] 2 AC 357, and the *Guide to Judicial Conduct*, and expressed the view that the circumstances which they had outlined did not come close to meeting the test for recusal. By email of the same date, I responded that I had considered the matter and that I took the view that there were no grounds on which I should recuse myself, but that in the event that the Defendant decided to ask me to recuse myself, I would consider the matter afresh at the start of the hearing in the light of whatever arguments he might raise.

16. The Defendant did not allude to those issues in his above emails. In these circumstances, I decided that I could and should hear the matter.

Procedural history

17. The Claimant was the Chief Executive Officer of the FA from March 2015 to August 2019. The Defendant is described in the Particulars of Claim as being an Illinois-qualified lawyer who has lived and worked in the UK for several years. Between 2014 and 2017 he was the Assistant Director of Football and Director of Statistical Research at Fulham Football Club. It is the Claimant's evidence that he has never worked with or met the Defendant, or had any dealings with him. Further, the Claimant knows of no reason for personal animosity towards him which might explain the Defendant's actions which form the subject of these proceedings.

18. The Claimant's claim is for libel and harassment arising principally from posts by the Defendant on Twitter, but also from some emails.

19. A detailed letter of claim was sent by the Claimant's solicitors to the Defendant on 14 February 2020. The Defendant's response – sent by email that same day – was "*sue if you like… I personally am trying to get things in court. I already asked you to sue several times, please do.*" The Defendant did not provide a substantive response. A subsequent letter asking whether the Defendant would accept service, including service of the Claim Form, by email, led to a response by the Defendant on 29 June 2020: "*Sue me already, Martin Glenn is done*" and the following further email on 30 June 2020:

> "How many days in a row do I need to publicly state that Martin Glenn is a criminal who intentionally enables child abuse?
>
> I told nearly every reported (sic) in uk yesterday. Will you pedophile protectors sue yet?
>
> I'll continue telling every major reporter in western world. I'll tell dan roan when we speak today.
>
> How can I get you guys to sue me?
>
> I'll send you an email later today with me simply reminding western press that Martin Glenn enables crime and covers up child sex abuse matters…"

20. The Claim Form was issued on 1 May 2020, and was accompanied by Particulars of Claim dated 31 July 2020. Nicklin J summarised the meanings attributed by the Claimant to the various Tweets and emails for the purposes of his claim in defamation by stating that the main themes in those meanings are that the Claimant:

i) corruptly facilitated, and accepted bribes to cover-up and protect, fraud and money-laundering within football which was carried out by organised crime networks;

ii) was part of an international criminal conspiracy that permits organised crime to run English football and covered up the sexual abuse of children, racism, fraud, money-laundering and misogyny;

iii) had pushed through a fraudulent sale of Wembley stadium;

iv) sought to punish, bully and silence whistle-blowers like the Defendant to avoid exposure of his corrupt activities; and

v) had delayed his departure from the FA to ensure that his corruption was covered up.

21. The Claimant's claim in harassment alleged that the Defendant had pursued a deliberate and persistent course of conduct amounting to harassment of him which

included the sending of the various Tweets and emails complained of in the defamation claim and a large number of other pleaded instances.

22. The Claim Form and Particulars of Claim were sent to the Defendant by post and by email on 31 July 2020, the Defendant having indicated on 2 July 2020 that he would accept service by email. On 10 August 2020, the Defendant sent an email to the Claimant's solicitors stating that he had "*not yet had the chance to read any of these documents or obtain an attorney, due to coronavirus*". He said that he would "*look to discuss timelines*" with the Claimant's solicitors and asked them "*not to rush ahead in order to take advantage of the pandemic*".

23. Nicklin J recorded that the latest deemed date of service of the Claim Form and Particulars of Claim was 4 August 2020, and that the Defendant was required to file (at least) an Acknowledgement of Service by 18 August 2020: CPR 10.3(1)(b). He did not do so. On 26 August 2020, the Claimant's solicitors wrote to the Defendant to advise him that he was required to have filed an Acknowledgement of Service by 18 August 2020, and warned the Defendant that if he did not file (and serve on them) an Acknowledgement of Service (or Defence), the Claimant would apply for judgment in default. If the Defendant had filed an Acknowledgement of Service, he would have had until 1 September 2020 to file a Defence. If he required longer, he could have agreed an extension of time of up to 28 days with the Claimant or have made an application to the Court.

24. The Defendant did not file an Acknowledgement of Service (or a Defence) by 1 September 2020. On 8 October 2020, the Claimant's solicitors wrote again to the Defendant. They advised him that, as he had not filed an Acknowledgement of Service (or a Defence), the Claimant would now apply to the Court for judgment in default under CPR Part 12. The letter enclosed an Application Notice, draft order and witness statement in support.

25. Still, the Defendant did not file an Acknowledgement of Service or Defence. On 20 October 2020, the Claimant's solicitors provided the Defendant with notification from the Court that the Claimant's Application for default judgment would be heard by the Court on 13 November 2020.

26. On 6 November 2020, the Defendant responded by email to the letter of 20 October 2020 stating, "*I have just read this today*". He added that he had been "*entirely busy this month*" with other litigation and said: "*I need an adjournment, can we please discuss immediately arranging this at a date that I can prepare for".* He suggested a hearing be fixed for December and that the pandemic had made his preparation and obtaining legal representation more difficult. On 10 November 2020, the Defendant sent an email to the Court together with a document headed "*Application for Adjournment*", which set out the basis on which he wished to apply for the hearing fixed for 13 November 2020 to be adjourned. A reply was sent by the Court to the Defendant indicating that his application for an adjournment would be considered at the hearing on 13 November 2020.

27. The hearing on 13 November 2020 was conducted remotely, using MS Teams. At the commencement of the hearing, the Defendant applied for the default judgment application to be adjourned for at least four weeks on the grounds that (i) he had insufficient time to prepare for the hearing and the Claimant's solicitors had been

unwilling to discuss a "reasonable timeline" to enable him to prepare, (ii) he was facing other claims which he submitted might need to be consolidated with the claim brought by the Claimant, and (iii) the Covid-19 pandemic had impeded his access to law libraries and made contacting the Court difficult.

28. Having considered those matters, Nicklin J was *"wholly unpersuaded*" of the first ground, and observed, among other things, that: *"The Defendant's claim that he has not had time "to fully read [the] pleadings" is difficult to accept as credible"*. With regard to the second ground, Nicklin J considered that it was *"impossible"* for him to assess *"whether there are other claims in which there is a sufficient overlap of issues and/or parties to make it arguable that there ought to be some consolidation"*, and observed, among other things, that: *"Although the Defendant has been fairly consistent in his communications with the Claimant's solicitors, and in his submissions to the Court at the hearing, that he wishes to defend his allegations, these statements have been made at a high level of generality*". As to the third ground, Nicklin J said: *"The Defendant has argued that the pandemic has had an impact on the time he has had to prepare. I simply cannot accept that submission"*. Accordingly, Nicklin J concluded: *"Overall, the Defendant has not persuaded me that the Court should grant an adjournment. His grounds, both individually and collectively, do not provide an adequate justification for such an adjournment*". Nicklin J further stated: *"The history of this claim since it was issued shows a lack of genuine engagement and a degree of prevarication. From a person who had positively invited the Claimant to sue him, and who apparently relished being provided with an opportunity for a Court to adjudicate on his claims, his behaviour after the Claim Form was served is difficult to comprehend. To achieve his stated aim of legal proceedings in which the truth of his allegations and his evidence would be tested, all he had to do was file an Acknowledgement of Service and then a Defence"*. Nicklin J further concluded that *"the Claimant has shown a great deal of restraint"*, that *"[the Claimant's] solicitors could not have been clearer in their correspondence in explaining to the Defendant what he was required to do"* and that *"[t]he responsibility for judgment in default being granted lies entirely with the Defendant; his conduct is difficult to fathom"*. See *Glenn v Kline* [2020] EWHC 3182 (QB) at [17]-[23].

29. Nicklin J considered the law concerning default judgments, and, applying the law to the facts, concluded that the Claimant was entitled to judgment in default against the Defendant (*ibid* [24]-[30]).

30. At [31], Nicklin J turned to consider the issue of remedies. At [36], Nicklin J recorded that judgment in default, and an injunction, had been granted against the Defendant *"as a direct result of his repeated and prolonged failure to engage with the Court's process and his failure to take the simple step of filing an Acknowledgement of Service (and a Defence)"*. Nicklin J further pointed out that *"if [the Defendant] contends that he has a defence with a real prospect of success, he can make an application to set aside the judgment in default that the Court has granted to the Claimant"* and that *"[i]f he is successful in setting aside the judgment, then the injunction granted by the Court will also be discharged"*. At [37], Nicklin J noted that the terms of the injunction to restrain further defamatory publications sought by the Claimant was *"clearly rooted in, and limited to, the pleaded case upon which the Claimant has been granted judgment"*, but went on to record that *"[a]t the hearing,*

the Defendant indicated that he would be prepared to give an undertaking to the Court in lieu of an injunction", and that he (Nicklin J) had *"indicated that if such an undertaking were capable of agreement, then it would be an acceptable way of proceeding"*. At [38]-[40], Nicklin J turned to consider the claim for harassment and recorded that *"because the acts sought to be restrained on the grounds of harassment are the same as those sought to be restrained on the grounds of further defamatory publications … nothing is added by the harassment claim to the terms of the injunction that would be granted in relation to the defamation claim"*. At [41], Nicklin J summarised the outcome of the hearing before him, and repeated at [41(iv)] that *"if he considers that he has grounds to do so, the Defendant can apply to set aside the judgment in default granted to the Claimant by making an application under CPR 13.3"*. Thereafter, the Defendant made no such application.

Amendment of the Claim Form

31. As set out above, this application is made pursuant to CPR 17.1(2)(b), and the Claimant's reasons for making the same are contained in §47 of his witness statement dated 17 December 2020.

32. Ms Marzec submitted that the Claimant could reasonably expect to recover a sum far in excess of the current figure of £25,000 contained in the claim form. In *Various Claimants v MGN Ltd* [2017] EWHC 1883 (Ch), a number of claimants who were seeking damages for unlawful information gathering sought to amend their claims from £100,000 to claims for unlimited damages. Mann J said at [63]: *"Unless there is a real question about the possibility of an increase over £100,000 it would be quite unrealistic to require the claimants to make an elaborate justification of the increase in a case of this nature"*. At [64], Mann J said: *"That will trigger the payment of an extra fee. That is right and proper … I consider that if the expectations of a claimant genuinely change during the course of an action he or she should not wait until trial and "wait and see" if more is recovered, but should amend when the expectation is changed … The fees do not depend on awards. They depend on expectations"*.

33. Ms Marzec further submitted that an amendment to the value of the claim does not introduce a new cause of action, and that accordingly the court should approach the amendment application by exercising its discretion in accordance with the overriding objective: *Glenluce Fishing Company Ltd v Watermota Ltd* [2016] EWHC 1807 (TCC) at [59]. In particular, the court should balance any injustice to the applicant if the amendment is refused against any injustice to the opposing party and litigants in general if the amendment is permitted: see the notes in the *White Book* at 17.3.5. The following matters are relevant in this regard: (i) the Defendant's position appears to be that he would *"rather face a smaller claim for damages"*, but he would agree the amendment if the matter went to a hearing *"so as to avoid hearing costs"*; (ii) he does not appear to suggest that he has suffered any prejudice by reason of the fact that the value of the claim was originally stated in a lesser sum; (iii) nor could he reasonably claim to have been taken by surprise as to the increase in the value of the claim: he must have known that his continued libel and harassment after the claim form was issued would aggravate the harm to the Claimant, and the Claimant's solicitors had alerted him to the fact that the Claimants would be seeking the amendment; (iv) conversely, refusing the application would cause prejudice to the Claimant by restricting the damages to which he is entitled to an upper limit of £25,000 when that will not adequately reflect the gravity of the ongoing wrong, nor properly vindicate

his reputation or compensate him for damage suffered; (v) this is plainly not a case in which the Claimant is seeking to avoid paying a higher court fee; and (vi) on the contrary, if the application is allowed, the Claimant has provided an undertaking to pay the additional court fee appropriate to the increased sum claimed.

34. I accept those submissions. I therefore propose to accede to this application, on the condition that the Claimant pays the increased fee.

The publications complained of – part 1

35. These are too numerous to set out in this judgment. Instead, a selection has to be made sufficient to indicate the thrust of the claims.

36. The Defendant began to publish defamatory tweets about the Claimant in early November 2018. These initial tweets (such as *"FA boss Martin Glenn absolutely refuses to enforce rules on tapping up"*) were brought to the Claimant's attention by the media team at the FA.

37. Shortly afterwards, on 13 November 2018, the Defendant sent an email to two professional game representatives on the FA Board, Peter McCormick and Rupinder Bains. In this email, the Defendant claimed that while at Fulham FC he had witnessed *"Non compliance, illegal activity and crime included systemic tapping up, racism, endangerment of minors, refusal to report, refusal to allow reporting, fake suspensions, cover ups, destruction of evidence, fabricated evidence, fraud, money laundering, threats of various sorts including threats of violence, and similar offenses"* and that a senior official at Fulham FC had *"explained that he could corrupt any investigations that resulted from my reporting by simply calling in favours from "his mate" Martin Glenn"*. The email further stated *"I've witnessed illegal conduct of a very serious nature. The FA under Martin Glenn has seen a series of cover ups ..."*. It also contained more general allegations of extremely serious wrongdoing (for example, by referring to *"the FA's cozy relationship with people who covered up child sex abuse"*). All of this was bolstered by the Defendant's claims to speak with authority: *"I am the highest ranking football executive in English football to blow the whistle on these matters"*.

38. As a result of this email, the FA engaged independent investigators to look into the Defendant's allegations against the Claimant. The investigation lasted several months. Although he was confident that the investigation would find that the Defendant's allegations were entirely without merit, the Claimant found it unpleasant and highly intrusive. For example, he was required to surrender his mobile telephone, and to submit to being interviewed by two former police officers, who questioned him robustly.

39. The Defendant had a substantial Twitter following which included a number of journalists. In these circumstances, it is unsurprising that his claims were picked up by the media. At a lunch for sports journalists on 18 November 2018, the Claimant was questioned about the allegations. In December 2018, the national media published stories about the allegations and the FA investigation. Articles appeared in the Sun, the Daily Mail and the Times. The coverage suggested that the Defendant's allegations were serious and credible: the Sun referred to him as a *"whistleblower"*; and the Times stated that he had *"submitted a dossier alleging systemic corruption*

and child endangerment, exploitation and fraud" to the FA. While the media coverage made clear that he denied the allegations, the Claimant was very concerned that many readers might consider that there was no smoke without fire, especially given the Defendant's previous role at Fulham FC. The Claimant later took steps to try to remove the subsequent media coverage or at least to have it amended, but the Daily Mail and the Times stories remain available.

40. In his witness statement before me, the Claimant states that *"[t]o be linked with "child endangerment" was terrible"*, that *"[a]t the time of the FA's investigation I was engaged in a massive undertaking with county football associations and the FA's volunteer workforce to establish a more robust process for managing safeguarding"*, and that *"[t]he suggestion by [the Defendant] that I might be involved in activities that endangered children in football was utterly ignorant and very upsetting"*.

41. The negative publicity had an immediate direct effect on the Claimant's life and reputation. For example, the Claimant sits on the board of Froneri, a global ice cream business which is a joint venture between Nestle and PAI Partners. In December 2018, Froneri wrote to the FA asking about the allegations. The FA's legal department responded explaining although they did not believe there was truth in the allegations, they had felt obliged to begin an investigation using outside investigators. After this incident, the Claimant felt obliged to contact Nestle whenever there was a new wave of allegations by the Defendant.

42. In the event, in spite of being invited to do so, the Defendant produced no evidence for any of his allegations against the Claimant, and the investigators found no such evidence. The Claimant understands that the Defendant was informed of this by the FA in July 2019. The FA also invited the Defendant to attend a meeting to discuss other allegations that he had made. However, the Defendant never arranged a time for a meeting.

43. The Claimant's solicitors first wrote to the Defendant on 16 November 2018, complaining about the Defendant's tweets; asserting that his allegations against the Claimant were baseless; stating that the FA was going to investigate his claims; and asking him to bring forward any evidence that he had. The Defendant responded by email on the same day, rejecting the complaint and stating: *"You are incorrect, nothing I've said is defamatory or false"*.

44. The Claimant's solicitors wrote again on 20 November 2018 warning the Defendant not to publish defamatory allegations against the Claimant. This letter, also, was met with a defiant and offensive response making further accusations of corruption against the Claimant, stating that the Defendant would continue to post publicly on *"these matters"*, and claiming that *"law enforcement and regulatory bodies have applauded me for my efforts to publicly speak out about corruption in football, including Martin Glenn's role in enabling such corruption and harassing whistleblowers"*. The Claimant is not aware of any evidence that any law enforcement or regulatory agency has, in fact, applauded the Defendant's publication of allegations against the Claimant.

45. The Defendant continued to tweet defamatory allegations about the Claimant. On 13 December 2018, the Claimant's resignation from the FA was announced. The Claimant's decision to resign had nothing to do with the Defendant's allegations.

Nevertheless, the Defendant suggested that the Claimant's departure was a result of the Defendant publicising the Claimant's misconduct. In tweets on 14 and 15 December 2018, the Defendant asked *"So why did Martin Glenn resign? Are FA really saying 'first corruption probe into FA chief not related at all?'"* and stated that he had recently met with investigators to discuss the Claimant's *"role in cover ups, enabling fraud and racism"* and that the Claimant had announced his resignation *"the following day"*.

46. The Defendant continued to tweet about the Claimant in November and December 2018 and into January and February 2019. On 19 January 2019, the Defendant published a thread of nine tweets addressed to the DCMS, which "mentioned" @DCMS_SecOfState. These included the claim that the Secretary of State *"is allowing crime to overrun sport while he defers to corrupt Martin Glenn who already offered his resignation in disgrace (1 day after I met w[ith] investigators"* and *"As you know, I'm the highest ranking former football ex whistleblower in English football & FA CEO Martin Glenn just resigned in part due to my allegations …"*. The operator of this account, which the Claimant contends was either the Secretary of State personally or civil servants working closely with the Secretary of State, would have been notified of this thread.

47. On 21, 22 and 26 January 2019, the Defendant published further tweets that "mentioned" various Members of Parliament and the footballers Stan Collymore and Gary Neville, the Claimant suggests with the intention of bringing his allegations to their attention. On these occasions, the allegations included *"I know how criminals in the sport got Martin Glenn to look the other way at crime"* and *"Martin Glenn enables corruption intentionally, that's his purpose"*; and the crimes identified included *"fraud and laundering"* and *"child sex abuse"*.

48. The Defendant also sought to publicise the articles that had appeared in the autumn of 2018 concerning the FA's investigation. He repeatedly retweeted a link to the Sun article, republishing a photo of the Claimant with a concerned expression above the Sun's caption *"The FA have appointed a former top police officer to investigate chief executive Martin Glenn"*. The Defendant did this on both 19 and 20 January 2019 - on the latter occasion below a tweet in which the Defendant claimed *"nearly every major UK news agency has covered my allegations in some respect on radio, tv or print. Dozens of recent major articles"* and that *"My allegations are why the Wembley deal didn't go through and why Martin Glenn resigned"*.

49. The Defendant appears to have desisted between February and May 2019, although he then renewed and indeed intensified his offensive.

50. The Claimant found these allegations outrageous and upsetting, and he was extremely concerned about their impact given the volume of the Defendant's tweets, the identity of some of the Defendant's followers, the previous media coverage, and the Defendant's attempts to contact influential people within football and politics via email correspondence and Twitter.

The claim for harassment alone

51. It is convenient to pause the narrative there, because the fact that the Claim Form was not issued until 1 May 2020 has the effect that the Claimant's claims for libel in

respect of the publications which preceded 1 May 2019 are time barred. Accordingly, with regard to those publications the Claimant can sue for harassment alone.

52. Guidance as to the correct approach when ascertaining the measure of damages for harassment was provided by Nicklin J in *Suttle v Walker* [2019] EWHC 396 (QB) at [54]-[56]:

> "54. Damages for harassment under the Protection from Harassment Act 1997 are to compensate a claimant for distress and injury to feelings, see *ZAM v CFW & Anor* [2013] EMLR 27 [59]. As I have noted, an award under this head overlaps with that element of compensation that is a constituent part of an award for libel damages.
>
> 55. So far as assessment of harassment damages is concerned there are established guidelines taken from employment discrimination cases, see *Barkhuysen v Hamilton* [2018] QB 1015 [160]:
>
> > 'Guidelines for damages in harassment were given by the Court of Appeal in *Chief Constable of West Yorkshire Police v Vento* (No2) [2003] ICR 318. The court identified three broad bands for compensation for injured feelings: a top band for very serious cases, a middle band for moderately serious cases and a third band for less serious cases, such as isolated or one-off occurrences. Only in the most exceptional cases, it was said, would it be appropriate to award more than the top band and awards of less than £500 were to be avoided as they risked appearing derisory. Again, adjustment for inflation is required. The former adjustment was made by the Employment Appeal tribunal in 2009 in *Da'Bell v National Society for the Prevention of Cruelty to Children* [2010] IRLR 19. Inflation since then has been some 20%, leading to a range in band 3 of up to £7,200, a middle band from £7,200 to £21,600 and a top band from £21,600 to £36,000. A *Simmons v Castle* adjustment is also required.'
>
> 56. The Vento bands, as they are called, have since been increased again: see paragraph 10 of The Employment Tribunal's Presidential Guidance of 5 September 2017:
>
> > 'A lower band of £800 to £8,400 (the less serious cases), a middle band of £8,400 to £25,200 (cases that do not merit an award in the upper band) and an upper band of £25,200 to £42,000 (the most serious cases), with the most exceptional cases capable of exceeding £42,000.'"

53. Dealing with the facts of that case, Nicklin J stated at [57]:

> "I consider that the following particular elements of the harassment, separate from the harassing element in the

> defamatory nature of the publications themselves, have an impact on the seriousness of the harassment and to the assessment of damages:
>
> a. The campaign was clearly and deliberately targeted by the Defendant at the Claimant via Facebook. The foreseeable response to it was vicious and frightening; it was calculated to (and did) whip up hatred for the Claimant and to put her in fear for her safety.
>
> b. The campaign was relentless over a period of three to four weeks and I am satisfied, on the evidence, that has had a lasting adverse effect on the Claimant.
>
> c. The use of a Facebook group was deliberately to recruit others to 'gang up' on the Claimant, whilst the Defendant and some of the commentators who chose to post comments on the page hid behind online anonymity. This is a hallmark of 'cyber bullying'. It is a particularly pernicious form of harassment because the victim may well feel constantly under siege and powerless to stop it."

54. In the present case, the Defendant subjected the Claimant to a prolonged attack over several months. The allegations were very serious, and went to the core elements of the Claimant's life. They threatened, and indeed may be said to have been designed to threaten, the Claimant's livelihood and professional standing; and they resulted not only in an in-depth investigation at the FA but also a continuing need for the Claimant to allay the concerns of organisations where he held office. It was particularly hurtful and distressing that the Claimant was accused, entirely without foundation, of being complicit in covering up child abuse when, in truth, he was concerned to ensure that the FA took safeguarding very seriously. Also, as was entirely predictable and was or should have been apparent to the Defendant, the campaign had a significant effect on the Claimant's private life: it gave rise to a very upsetting period for his family, with his wife being greatly concerned, and his children seeing these allegations because they were, as he put it, *"social media natives"*.

55. There were, in my judgment, a number of seriously aggravating features of this harassing course of conduct. The allegations were not only serious and repeated; they were spiteful and unrestrained. The Defendant sought to spread them as widely as he could, not only within the football community, but also to politicians and national newspapers. The Defendant trumpeted their credibility by asserting that he was a senior and well-informed source (*"the highest ranking … whistle-blower in English football"*), by relying on the extent to which they had been disseminated (*"nearly every major UK news agency has covered my allegations"*) and by claiming, untruthfully, that the Claimant had resigned from the FA because of them. The Defendant persistently claimed to be in a position to demonstrate that his allegations were true, and to want the opportunity to do that, without at any time actually producing any evidence to support them.

56. Overall, I consider that this was a very serious, thoroughly unpleasant and vindictive case of online harassment that was pursued remorselessly over several months and has

caused the Claimant significant upset and distress. In my judgment, the claim for harassment based on the course of conduct from November 2018 to the end of February 2019 justifies an award on the cusp of the upper *Vento* band. Taking all these factors together, I consider that the appropriate award of general damages is £25,000. This reflects my assessment of the seriousness of the harassment and its effect on the Claimant. The award would have been higher if the Claimant had not coped with the allegations as well as he did. In spite of their vile and unrelenting nature, the Claimant found the resilience to weather the initial storm, and it seems to me that in all probability he would not have brought proceedings if matters had stopped there. However, they did not.

The publications complained of – part 2

57. The Defendant again tweeted links to the Sun article on 30 May, 4 June, 10 and 14 August 2019. By the time of these last two tweets, the FA's investigation was over and the FA had found no evidence of misconduct against the Claimant. It is the Claimant's case that the Defendant knew these matters and, therefore, knew also that the Sun article was by that time out of date and likely to mislead.

58. When the Defendant resumed his campaign in May 2019, the allegations in his tweets became even more serious, accusing the Claimant more explicitly of having taken an active role in crime, as well as being complicit in child abuse. For example, on 30 May 2019, the Defendant alleged that the Claimant was *"part of an intentional effort to let organised crime run [E]nglish football"*; on other occasions the Defendant suggested that the Claimant was involved in a fraud involving an agent for a Tottenham player; and on 26 June 2019 the Defendant alleged that the Claimant was *"a crime-enabling disgrace, lets racism & child abuse run rampant in sport [because] he protects the fraud"*. The Defendant continued to publish these and similar allegations of criminality about the Claimant in multiple tweets throughout May, June, July and the first half of August 2019, at which point the Defendant went quiet again.

59. On 20 December 2019 it was announced that the Claimant had been appointed as Chairman of the Football Foundation, a charity that seeks to promote grassroots football. This appears to have stirred the Defendant to action.

60. The following day the Defendant quote-tweeted the Football Foundation's announcement and responded with a thread of defamatory tweets referring to the Claimant as *"a criminal"* and *"a guy who covers up pedophile [sic] rings"*.

61. Also on 21 December 2019 the Defendant sent an email to the Football Foundation, the Claimant's new employer, which incorporated a message which the Defendant said that he had sent to "DCMS Lords" (i.e. it would appear the representatives of the Department of Digital, Culture, Media and Sport in the House of Lords). The "Subject" of the email was *"Please Deliver to Football Foundation Board: Martin Glenn is a criminal"*. The email began *"The main point of writing this email is that you have just hired a criminal who protects pedophile rings & money laundering networks. Martin Glenn is a completely inappropriate hire for an organization that works with children in football. This hire was very likely done in bad faith"*. It continued by stating that two other individuals had *"conflicts of interest with respect to Martin Glenn"* because *"Both have worked on the same criminal projects as*

Glenn: pushing a fraudulent Wembley sale; protecting the money laundering ring in football, working closely with organized crime, silencing whistle blowers on whatever topic (child abuse, fraud, racism, etc)". The email continued:

> "I would like to discuss with you Martin Glenn's criminal career- how it is specifically that he protects and works with organized crime in football to further corruption, health science fraud, racism, child abuse, pedophilia, violence in the sport, etc.
>
> Please get back to me willing to discuss my allegations and the proof that l have. Martin Glenn is still working with an organized crime network - most specifically on pushing the Wembley sale to faciliate an NFL move to London- but also to protected organized crime figures and pedophiles who opearte in the upper circles of football.
>
> I am probably one of the only former executives in UK football who has (1)worked at a high level as an executive in football and (2) has brought allegation, to your organization, regarding child abuse, pedophilia, money laundering, corruption, bribes, and the like in football. Please don't ignore me your organization has made a very dubious decision to hire Martin Glenn: it will not last, this decision will come under review, I am aware of where various investigations currently stand. Please respond and do not hide from allegations that you have hired a person who protects pedophilia & money laundering rings."

62. The message to "DCMS Lords" included the following words:

> "I write to you today because I see the Football Foundation has hired Martin Glenn. He is a criminal who protects child abuse networks - every exec or owner I worked with our knew in football operate under a 'no reporting anything' protocol because they know that any serious investigation into football clubs due to child abuse or racism will also reveal major crime and -critically- will end the specific money laundering network … that the major owners have used over the past several decades for laundering & bribes. Can't clean up child abuse academies and racist coaches, scouts & execs without stumbling across the major fraud & money laundering networks in football: so no one is cleaning up the clubs.
>
> Martin Glenn very specifically tries to silence whistleblowers. He did so with … myself and many others. When I was trying to tell the FA council about the money laundering/child abuse ring pushing for the Wembley sale 'so they could benefit kids,' Martin Glenn threatened to sue me if continued speaking out. I knew that none of these criminals would risk court so I continued to speak out. He announced his resignation the very first day that I met with FA investigators to look into Glenn's

> crime. However, FA investigators refused to meet with me after that 1 day discussion (we had scheduled 3 days), & then shut down the investigation.
>
> Now Martin Glenn has been hired by the Football Foundation- which has control and access to children. He will still be prioritizing crime, money laundering, & protecting organized crime in football: while kids, minorities, etc suffer. He is a cover up artist who operates as part of the organized crime network in football. But who can an exec even report to? … Would you please get back to me and let me know how I can get a proper investigation? … I am not naïve enough to think the House of Lords doesn't realize that it is allowing child abuse, racism, health science fraud, money laundering, pedophile rings, etc to dominate football without making a serious investigation: all at the House of Lords surely know that they have so far done almost nothing to help clean up the sport.
>
> Please be responsive, I have evidence - l just need good faith regulators to stop engaging in covering up money laundering & pedophile rings."

63. As a result of the Defendant's email to the Football Foundation, the trustees alerted the Charity Commission and the FA as to the allegations. This delayed the formalising of the Claimant's new role. At this time, historic child abuse in football had not long been exposed (for example, the paedophile Barry Bennell was convicted in February 2018), and child abuse allegations had to be taken very seriously. The Claimant was *"absolutely enraged"* by the Defendant's actions, which appeared to him to be calculated to cause maximum harm to his reputation and career, and to show no regard whatsoever for the inevitable hurt and distress they would cause him. It was an uncomfortable and embarrassing time for the Claimant, and caused him significant distress. The Claimant's family and friends became concerned about the allegations, and, further, that the Defendant was unstable and that his actions might become more sinister. In particular, the Claimant's wife became concerned that the details of their home address might be accessible from searches against the Claimant at Companies House, and his daughter became worried that the Defendant might turn up at the family home.

64. The Claimant therefore instructed his solicitors to write to the Defendant again, this time pursuant to the Pre-action Protocol for Media and Communications Claims, notifying the Defendant of the Claimant's potential claim against him for harassment and defamation. The Claimant's solicitors' 13-page letter set out the history of the Defendant's campaign against the Claimant and asked him to remove his tweets, to undertake not to continue, to disclose other similar publications which the Defendant had made, and to apologise to the Claimant. It did not ask for either damages or costs.

65. The Defendant responded on the same day, 14 February 2020, with an email stating *"Sue if you like, your [sic] client is a criminal. I personally am trying to get things in court. I already asked you to sue several times, please do. Thanks"*. The Defendant then tweeted further allegations against the Claimant on 19 and 23 February 2020, saying that the Claimant's solicitors were *"trying to gag me in reporting on Glenn's*

crime" and that *"Likes of Martin Glenn (former CEO of FA) are actively enabling crime - helping those who cover up child sex abuse & run major money laundering rings"*.

66. In the light of this response, the Claimant issued proceedings on 1 May 2020. On 11 May 2020, the Claimant's solicitors wrote to the Defendant informing him that proceedings had been issued and asking him to confirm that he would accept service by email. The Defendant responded on 29 June 2020 with three emails. The first at 10:35 threatened that he would remind *"western press that Martin Glenn enables crime and covers up child sex abuse matters"*. The second and third each consisted of a single line: the first of these was unrepentant *"Sue me already. Martin Glenn is done"*; and the second one was more menacing *"But me and mine are just getting started"*.

67. In spite of being told that proceedings had been issued against him, on 26 June 2020 the Defendant wrote to KickItOut, a charity devoted to promoting equality and diversity within organised football, repeating the allegations against the Claimant concerning organised crime and racism. This 4-page email referred to the *"massive amount of evidence"* which the Defendant claimed to have *"including written texts"*.

68. On 29 June 2020, the Defendant sent an 18-page email to about 18 Members of Parliament, containing a host of allegations of criminality against a large number of people including the Claimant. The email listed many crimes that the Defendant said that he had *"witnessed"*. In respect of the Claimant it alleged, in particular:

> "I witnessed the FA take bribe money from criminals to set up the Wembley deal and to quash my reporting. From 2015-2017, [various persons] directed money, or promised funds, to Martin Glenn [and others], in exchange for their cooperation in criminal schemes. The money directed to Glenn was simply the purchase money for Wembley, which Glenn has a free hand to distribute (through the Football Foundation, which he now runs). Please note that one day after I met with investigator Mark Davison to explain the fraud I saw, Martin Glenn announced his resignation the very next day and refused to meet with me again (despite having rented a room for 3 days and having arranged 3 days of meetings with me). Glenn then moved over to the Football Foundation, where he is now positioned to hand out the Wembley funds if the deal goes through (it is still on in the background, the FA will only sell to an NFL owner). [Various persons] had set up the Wembley deal to be purchased at half price. I was privy to the real valuations of Wembley which is 1.6 billion. But various bribe schemes were set up, including how the Wembley proceeds would be paid out, such that the FA and other parties were chomping at the bit to sell Wembley at half price. Martin Glenn at the FA was the main criminal operating this scheme, however other FA officials also got involved in different ways."

69. The Claimant was appointed Chair of Chapel Down Wines in July 2020, and was asked to explain the defamatory tweets during a reference check. Although this matter was quickly resolved, the Claimant's concern is that the ongoing availability of the Defendant's allegations, in the absence of a judgment by the Court and appropriate vindication, will mean that (in future) executive search firms and/or employers will be less inclined to include him on shortlists for roles.

70. The Claim Form was served on the Defendant on 31 July 2020. The Defendant responded on 10 August 2020, stating that he had not had time to read the documents or *"obtain an attorney"*. The Defendant responded further with various emails on 11 August 2020, in the last of which he asked for *"a brief 3 weeks extension for my reply and for me to organize representation, and then let's get on with it"*. Despite being given an extension of time, after 11 August 2020 he fell silent and failed to serve an Acknowledgment or a Defence. On 13 October 2020, the Claimant served the Defendant with an application for judgment in default. The application was listed for 13 November 2020. It was not until 10 November 2020 that the Defendant contacted the Claimant's solicitors again, by copying them into an email sent to the court. Although the Defendant had not served a Defence, his email to the Court asserted the truth of his allegations: he described himself as *"the Wembley whistleblower"*; referred to *"the money laundering, bribes, fraud and coverups"* that he claimed to have seen *"orchestrated"* by the Claimant and others, and stated that he had *"sufficient evidence"* including *"a paper trail"*.

The claim for defamation

Applicable principles

71. The relevant principles as to quantification of damages in a defamation case were set out by Warby J (as he then was) in *Barron v Vines* [2016] EWHC 1226 (QB):

> "20. The general principles were reviewed and re-stated by the Court of Appeal in *John v MGN Ltd* [1997] QB 586. A jury had awarded Elton John compensatory damages of £75,000 and exemplary damages of £275,000 for libel in an article that suggested he had bulimia. The awards were held to be excessive and reduced to £25,000 and £50,000 respectively. Sir Thomas Bingham MR summarised the key principles at pages 607 – 608 in the following words:
>
> 'The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must [1] compensate him for the damage to his reputation; [2] vindicate his good name; and [3] take account of the distress, hurt and humiliation which the defamatory publication has caused. In assessing the appropriate damages for injury to reputation the most important factor is [a] the gravity of the libel; the more closely it touches the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. [b] The extent of publication is also very relevant: a libel published to millions has a greater potential to cause damage than a libel published to a handful of people. [c] A successful plaintiff may properly look to an award of damages to vindicate his reputation: but the significance of this is much

greater in a case where the defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the defendant acknowledges the falsity of what was published and publicly expresses regret that the libellous publication took place. It is well established that [d] compensatory damages may and should compensate for additional injury caused to the plaintiff's feelings by the defendant's conduct of the action, as when he persists in an unfounded assertion that the publication was true, or refuses to apologise, or cross-examines the plaintiff in a wounding or insulting way. Although the plaintiff has been referred to as "he" all this of course applies to women just as much as men.'

21. I have added the numbering in this passage, which identifies the three distinct functions performed by an award of damages for libel. I have added the lettering also to identify, for ease of reference, the factors listed by Sir Thomas Bingham. Some additional points may be made which are relevant in this case:

(1) The initial measure of damages is the amount that would restore the claimant to the position he would have enjoyed had he not been defamed: *Steel and Morris v United Kingdom* (2004) 41 EHRR [37], [45].

(2) The existence and scale of any harm to reputation may be established by evidence or inferred. Often, the process is one of inference, but evidence that tends to show that as a matter of fact a person was shunned, avoided, or taunted will be relevant. So may evidence that a person was treated as well or better by others after the libel than before it.

(3) The impact of a libel on a person's reputation can be affected by:

a) Their role in society. The libel of Esther Rantzen was more damaging because she was a prominent child protection campaigner.

b) The extent to which the publisher(s) of the defamatory imputation are authoritative and credible. The person making the allegations may be someone apparently well-placed to know the facts, or they may appear to be an unreliable source.

c) The identities of the publishees. Publication of a libel to family, friends or work colleagues may be more harmful and hurtful than if it is circulated amongst strangers. On the other hand, those close to a claimant may have knowledge or viewpoints that make them less likely to believe what is alleged.

d) The propensity of defamatory statements to percolate through underground channels and contaminate hidden springs, a problem made worse by the internet and social networking sites, particularly for claimants in the public eye: *C v MGN Ltd* (reported with *Cairns v Modi* at [2013] 1 WLR 1051) [27].

(4) It is often said that damages may be aggravated if the defendant acts maliciously. The harm for which compensation would be due in that event is injury to feelings.

(5) A person who has been libelled is compensated only for injury to the reputation they actually had at the time of publication. If it is shown that the person already had a bad reputation in the relevant sector of their life, that will reduce the harm, and therefore moderate any damages. But it is not permissible to seek, in mitigation of damages, to prove specific acts of misconduct by the claimant, or rumours or reports to the effect that he has done the things alleged in the libel complained of: *Scott v Sampson* (1882) QBD 491, on which I will expand a little. Attempts to achieve this may aggravate damages, in line with factor (d) in Sir Thomas Bingham's list.

(6) Factors other than bad reputation that may moderate or mitigate damages, on some of which I will also elaborate below, include the following:

a) "Directly relevant background context" within the meaning of *Burstein v Times Newspapers Ltd* [2001] 1 WLR 579 and subsequent authorities. This may qualify the rules at (5) above.

b) Publications by others to the same effect as the libel complained of if (but only if) the claimants have sued over these in another defamation claim, or if it is necessary to consider them in order to isolate the damage caused by the publication complained of.

c) An offer of amends pursuant to the Defamation Act 1996.

d) A reasoned judgment, though the impact of this will vary according to the facts and nature of the case.

(7) In arriving at a figure it is proper to have regard to (a) Jury awards approved by the Court of Appeal: *Rantzen* 694, *John*, 612; (b) the scale of damages awarded in personal injury actions: *John*, 615; (c) previous awards by a judge sitting without a jury: see *John* 608.

(8) Any award needs to be no more than is justified by the legitimate aim of protecting reputation, necessary in a democratic society in pursuit of that aim, and proportionate to that need: *Rantzen v Mirror Group Newspapers* (1986) Ltd [1994] QB 670. This limit is nowadays statutory, via the Human Rights Act 1998."

Claimant's submissions

72. Ms Marzec submitted that although the Claimant was in principle entitled to an award of damages in respect of each of the publications complained of, the most time and cost-efficient way of proceeding would be for the Court to award him a single global sum to vindicate his reputation and compensate him for distress in relation to all the

defamatory publications. Nevertheless, in determining the amount of any such global award I should take into account that judgment on any one of these publications alone would ordinarily give rise to a significant award.

73. Ms Marzec further submitted that the question of whether there should be separate awards in relation to defamation and harassment is one for the discretion of the Court. She submitted that, although there is no complete overlap of the matters relied on as constituting libel and those constituting harassment, it would be artificial to try to separate out the distress caused by the libels to that caused by the course of conduct constituting harassment. She therefore submitted that there should be one award in relation to the libels and the course of conduct, at least where the two causes of action overlap in time from May 2019. This was the course adopted by Nicklin J in *Suttle* (cited above), and by Saini J in *Triad Group plc v Makar* [2020] EWHC 306 (QB) at [27]. Similarly, in *ZAM v CFW & TFW* [2013] EWHC 662 (QB); [2013] EMLR 27, Tugendhat J awarded £120,000 in respect of defamatory allegations made to the Claimant's family, employer and others that the Claimant had mismanaged and misappropriated the family trusts, and was a paedophile. Although the claim in harassment succeeded, no separate award was made because the making of the defamatory statements constituted the harassment.

74. Turning to the measure of damages, Ms Marzec submitted as follows.

75. First, on its facts this case is at the top end of the scale of gravity of defamation claims. Where a damages assessment follows default judgment, the court should give judgment based on the claimant's pleaded meaning, unless it is *"wildly extravagant or impossible"*: *Sloutsker v Romanova* [2015] EWHC 2053 (QB); [2015] EMLR 27 at [83]-[86]. In the present case, however, in his judgment following the application for default judgment, Nicklin J indicated (at [30]) that the Claimant's pleaded meanings are both tenable and seriously defamatory of the Claimant. Nicklin J summarised *"the main themes"* of the meanings attributed to the publications by the Claimant as set out above. However, although she accepted that these are indeed the main themes, Ms Marzec invited me to consider the defamatory words themselves to get a proper flavour of the tone and content of the allegations.

76. Second, in assessing gravity, the obvious starting point is that allegations of child abuse are of the utmost severity. In *ZAM v CFW & TFW*, Tugendhat J said at [117] that it is *"well known that an allegation of being a paedophile is, in contemporary life, viewed as so foul that even the most categorical vindication does not prevent a person so accused of having his name permanently linked with the allegation"*. Unsurprisingly, therefore, such allegations sit *"at the upper end of the scale of gravity"*: *Barkhuysen v Hamilton* [2016] EWHC 2858 (QB) at [158]. In *Monir v Wood* [2018] EWHC 3525 (QB) an allegation of involvement in child sex abuse (grooming) was said to be *"towards the top end of seriousness"* (at [229]).

77. Third, the meaning of the publications complained of is not just that the Claimant turned a blind eye to child abuse, but that he was actively involved. For example, it was alleged that the Claimant ensured investigations into child abuse were shut down (a tweet dated 13 July 2019 alleged *"Bc of need for people like FA CEO Martin Glenn to protect fraud & money laundering by the likes of [X] – investigations into racism and child abuse get shut down"*). In his email to the Football Foundation, the Defendant alleged that the Claimant is *"a completely inappropriate hire for an*

organization that works with children", thus implying that the Claimant is not a safe person around children. Moreover, even an allegation that a person has covered up child abuse or stood by perpetrators is plainly gravely serious. In *Barron & Ors v Collins* [2017] EWHC 162 (QB) at [55] allegations of turning a blind eye to large scale sex abuse of children were rightly said to be *"undoubtedly serious"*.

78. Fourth, the allegations relating to child abuse were particularly grave when levelled at the Claimant, as they managed to strike at all aspects of his life simultaneously – his career in an industry involving and loved by children (and in which there had been highly publicised claims of historic abuse), his family life as a caring father, and his *pro bono* role as Chairman of a charitable organisation promoting football to children. The Claimant regarded child abuse as the *"most serious allegation that can be made about an individual, particularly someone who, in my case, was ultimately responsible for the safeguarding of children in a sport"*. That view was understandable.

79. Fifth, the Defendant's allegations of fraud, corruption, bribery, conspiracy and money-laundering are also gravely serious, as they impute not only dishonesty but the commission of serious criminal offences. In *Triad Group v Makar* [2020] EWHC 306 (QB), Saini J held at [47] that allegations that of dishonesty and criminal offences (effectively, fraud) were *"of the most serious nature"*.

80. Sixth, allegations that the Claimant covered up racism and misogyny are also very serious, particularly in light of current socio-political movements. Public opinion of racists and misogynists is at an all-time low, and suggesting that the Claimant held these beliefs constituted a prominent attack on both his moral and professional integrity.

81. Seventh, when considering the gravity of the allegations made, the Court can view each of the tweets complained of singly – they are all individually extremely serious – but also collectively. The Defendant's Twitter "followers" would have been likely to see the whole series, over a length of time. The incremental effect of reading these allegations over a period of time would have been devastating to the Claimant's reputation.

82. Eighth, all these allegations made assertions of guilt against the Claimant. They were not couched in the language of suspicion. The Defendant has repeatedly asserted that he has direct knowledge of the Claimant's guilt of the charges that the Defendant has made.

83. Ninth, addressing the manner and extent of publication, this can be thought of in two stages: first, the Court should consider the number of people likely to have read the words complained of; and second, the Court should consider the likely size of the secondary readership.

84. There was a significant primary readership. (a) The Defendant has about 1,700 followers on Twitter. As the Defendant published the tweets on thirteen different dates over a one-year period, it can safely be inferred that each of the Defendant's followers would have seen at least one (if not more) of the tweets on their timeline, and many would have seen them all. (b) As the Defendant's Twitter account is set to 'public', the tweets were visible to anyone who viewed his profile. As news of the

Defendant's allegations spread, it can be inferred that interested persons would have accessed the Defendant's profile to view the defamatory tweets. (c) The tweets were online for an extended period (about 12 months for the earliest tweets, and 2 months for the latest). (By comparison, the defamatory tweets in *Monroe v Hopkins* [2017] EWHC 433 (QB), which imputed a far less serious allegation, were only visible for 2 hours and 25 minutes, and still attracted a damages award of £24,000: see [54].)

85. Beyond these primary recipients, the evidence demonstrates the inevitable operation of the "grapevine effect", in which scandalous allegations "percolate" by way of the internet, and particularly in this case amongst those interested in football: see *Cairns v Modi* [2012] EWCA Civ 1382; [2013] EMLR 8 at [27], in which Lord Judge CJ stated that the percolation phenomenon is a legitimate factor to be taken into account in the assessment of damages. Evidence of percolation includes the following. (a) National news organisations picking up and reporting on the allegations, with the effect of exponentially increasing the reach of the allegations. As explained in his evidence, the Claimant has taken steps to have the articles reporting the Defendant's allegations removed, but that the Daily Mail and the Times stories remain online. (b) The Claimant being questioned about the allegations by key business contacts, including during a referencing process. (c) The Claimant's colleagues at Froneri asked him and the FA about the allegations.

86. The Court should also have in mind the warnings in the case law as to the damaging potential of internet publications, due to their permanence online. (a) Website publications remain accessible in ways that hard copy publications never did, so a person's reputation may be *"damaged forever"*: *ZAM v CFW* [2013] EWHC 662 (QB) at [61]-[62] per Tugendhat J. Even though the tweets were deleted, they remain accessible via republications, screenshots, and potentially archived webpages. (b) It should not be assumed that emails are equivalent to private letters, as given the ease of communication they may remain in circulation for the indefinite future: see *Markovic v White* [2004] NSWSC 37 at [21].

87. Although the two email publications complained of in defamation were not published online to a mass readership, the identities of the publishees meant that the libels were nevertheless likely to have a very significant impact. (a) The Defendant sent his email to the Football Foundation the day after it was announced that the Claimant had been appointed as Chairman. This included the words *"you have just hired a criminal who protects pedophile [sic] rings & money laundering networks"*, as well as a number of other defamatory allegations. These were read by his new employer and those he was about to start working with. (b) The email reproduced in the email to the Football Foundation to DCMS Lords included the same allegations, but also the allegation that the Claimant tried to *"silence whistleblowers"*, including the Defendant himself. The Claimant does not know who at the Department of Digital, Culture, Media and Sport read this message but it appears very likely that these allegations were made to people in charge of sport in the UK. (c) The emails relied on in aggravation in June 2020 were also sent, no doubt deliberately, to influential people: the email to KickitOut went to the trustees of that charity, and as a result to the Charities Commission; the second email was sent to a large number of Parliamentarians.

88. Tenth, dealing with the credibility of the Defendant, the following factors are relevant. He is a US-qualified lawyer. He claims to have joined Fulham FC as Director of Statistical Research in 2014 and to have been promoted to Assistant

Director of Football in January 2017, and to have resigned in October 2017. On his Twitter bio, he describes himself as *"Whistleblower & Data Scientist, Formerly: Fulham Assistant Director of Football, Jacksonville Jaguars Consultant, and attorney"*. The Claimant does not know if these matters are true, but does not dispute them. The Defendant has repeatedly used these credentials to bolster the legitimacy and credibility of his allegations against the Claimant. All his tweets would have been understood to have been written by someone with inside knowledge of the football industry, and his claims to have witnessed or to have direct knowledge of the crimes alleged had to have been taken seriously. Comparably, in *Cairns v Modi* [2013] 1 WLR 1015, the court took into account that the defendant had *"apparent authority"* due to his previous positions as Chairman and Commissioner of the Indian Premier League and Vice-President of the Board of Cricketing Control for India (at [27]).

89. Eleventh, dealing with the distress and alarm caused by the Defendant's campaign, the Claimant's evidence details his distress, embarrassment and humiliation, which was compounded by his family and friends becoming concerned about the allegations. The Claimant found the following aspects of the libels particularly distressing. (a) He describes his fears over this period as to the impact of the Defendant's campaign. He also has fears about the impact of the allegations on his future career. (b) The allegations of being linked with child abuse were *"terrible"*. (c) The Claimant was *"absolutely outraged"* by the Defendant writing to the Football Foundation. (d) The situation caused the Claimant *"significant distress"*. Part of that distress has been caused by the effects on his family, which I have described above. The Claimant was concerned enough to consult the FA's Head of Security.

90. Twelfth, there were a number of aggravating features of the Defendant's conduct. (a) Despite not producing any evidence, at any time, of his allegations, the Defendant has at all times remained completely unrepentant. His hostility and vindictiveness towards the Claimant appear to be limitless. He must be aware that, whatever grounds he believes he has for his claims, they are insufficient to cause any objective person to believe his allegations to be justified. He has repeatedly stated that he has evidence for his claims when he must know he has none. (b) Despite the Claimant's solicitors complaining as early as November 2018, the tweets remained online until April 2020. In particular, the Defendant kept them online for 9 months after he was informed that the FA had found no misconduct against the Claimant, and this included the tweets referring to the FA investigation. (d) The Defendant remains entirely unapologetic about his grave course of conduct. Having been alerted that the allegations were false and causing the Claimant significant distress, the Defendant not only did not publish an apology or retraction, but he also threatened the Claimant with a continuation of his campaign (*"me and mine are just getting started"*). The Defendant has never sought to correct or retract any allegation. (e) At all times up to the hearing of the default judgment application (when he indicated a willingness to give undertakings), the Defendant continued to make and threaten to make further allegations (including in a message to the Court sent 3 days before the hearing). (f) The Defendant's lack of engagement with the litigation is also an aggravating factor: see *Sharma v Sharma* [2014] EWHC 3349 (QB). As Nicklin J observed, the Defendant's behaviour has shown a lack of genuine engagement and a degree of prevarication. Since the judgment of Nicklin J, the Defendant has continued to neglect the litigation, such as

failing to respond to repeated requests as to whether he agreed to dispense with personal service of the Order of Nicklin J dated 25 November 2020.

91. Finally, in the light of the Defendant's conduct to date, the Claimant cannot be confident that these proceedings will mean the end of the matter. He asks for an award of damages that will properly signal that the Defendant's allegations against him are false.

92. With regard to the measure of damages for harassment, Ms Marzec submitted that the following factors are of particular relevance. (a) The protracted and relentless nature of the Defendant's campaign, persisting up to, and beyond, the issue of proceedings. (b) The course of conduct relied on contains very numerous incidents of harassment: Schedule 2 of the Particulars of Claim sets out all the publications complained of, and runs to 47 pages of abuse. (c) All of this was directly targeted at the Claimant. The Defendant must have known it would come to the Claimant's attention – it was impossible that it would not do so, especially since the Defendant brought his online allegations to the attention of the FA in November 2018. (d) The distress and alarm caused by the Defendant's conduct, as set out above. (e) The aggravating features of the Defendant's conduct, as set out above.

Discussion and conclusion

93. As Warby J said in *Doyle v Smith* [2019] EMLR 19 at [131]: *"The authorities suggest that the Court should have regard to other awards made by Judges and/or approved by the Court of Appeal, in respect of comparable libels"*. At the same time, as Eady J said in *Al Amoudi v Kifle* [2013] EWHC 293 (QB) at [24]: *"comparable awards … are … of limited assistance only because circumstances vary so much from one case to another"*. As Nicklin J said in *Monir v Wood* [2018] EWHC 3525 at [228]: *"Damages for libel cannot be calculated on any mathematical basis. By definition, they seek to provide compensation for harm that it is almost impossible to quantify in monetary terms. The Court attempts to achieve consistency in awards by applying the principles I have identified above, but in reality, no case presents exactly the same circumstances and only some level of commonality or general principle can be extracted"*.

94. For these purposes, Ms Marzec, helpfully, drew my attention to a large number of awards which have been made in other cases. The cases which I consider to be of most assistance are the following:

(1) In *Cairns v Modi* [2013] 1 WLR 1015, the Court of Appeal upheld an award of £75,000 (plus a £15,000 uplift for the way in which the proceedings had been conducted on the defendant's behalf) to a claimant who was accused of match-fixing in a tweet sent to about 65 people (albeit *"almost certainly"* comprising a *"specialist [readership], consisting of those with a particular interest in cricket"* - see Lord Judge CJ at [26]).

(2) *ZAM v CFW & TFW* [2013] EWHC 662 (QB); [2013] EMLR 27, discussed above.

(3) In *Barron & Healey v Vines* [2016] EWHC 1226 (QB), Warby J awarded damages of £40,000 each to two Members of Parliament who had been accused of

standing by and doing nothing when aware of large-scale sexual abuse of children in their constituencies, and of failing to ensure that the perpetrators were brought to justice, in a live television broadcast which would have been viewed by hundreds of thousands, and which would have percolated more widely.

(4) In *Monroe v Hopkins* [2017] 4 WLR 68, Warby J awarded £24,000 to a claimant who was accused, in tweets which were posted to tens of thousands of publishees, of condoning and approving of scrawling on war memorials and monuments.

(5) In *Doyle v Smith* [2019] EMLR 19, Warby J awarded damages in the sum of £30,000 in respect of an article published on a "village news" website which had 242 views, and which alleged that there was very good reason to believe that the claimant had been guilty of participation in an attempt to defraud members of a rugby club of many millions of pounds.

(6) In *Fentiman v Marsh* [2019] EWHC 2099, I awarded damages of £55,000 (made up of a basic award of £45,000 and £10,000 for aggravation) in respect of allegations that the claimant was a computer-hacker responsible for illegal cyber-attacks on a company, made by blog posts read by about 500 people, which had deeply troubled people who were close to the claimant and who had previously trusted and admired him. In that case, the allegations were particularly harmful to the claimant in view of those to whom they were published, and there was actual evidence of specific harm.

95. In the present case, I agree that all the factors identified by Ms Marzec are relevant. I also agree that it would be appropriate to make one award in respect of all the defamatory publications complained of, and that this award should take account of the claim in harassment as well as the claim in libel. In my judgment, applying the principles I have identified and taking account of all the factors mentioned, and, in addition, the fact that I have awarded £25,000 in respect of the claim for harassment based on the publications which pre-dated May 2019, that award cannot be less than £65,000, with an additional £10,000 for aggravated damages. Anything less would fail to serve the relevant purposes, and in particular the purpose of vindication.

The application under s12

96. Section 12 of the Defamation Act 2013 provides:

> "(1) Where a court gives judgment for the claimant in an action for defamation the court may order the defendant to publish a summary of the judgment.
>
> (2) The wording of any summary and the time, manner, form and place of its publication are to be for the parties to agree.
>
> (3) If the parties cannot agree on the wording, the wording is to be settled by the court.
>
> (4) If the parties cannot agree on the time, manner, form or place of publication, the court may give such directions as to

> those matters as it considers reasonable and practicable in the circumstances.
>
> (5) This section does not apply where the court gives judgment for the claimant under section 8(3) of the Defamation Act 1996 (summary disposal of claims)."

97. In *Monir v Wood* [2018] EWHC 3525, Nicklin J said at [239]-[241]:

> "239. The purpose of this section is to provide a remedy that will assist the claimant in repairing the damage to his reputation and obtaining vindication. Orders under the section are not to be made as any sort of punishment of the defendant.
>
> 240. Orders under s.12 are discretionary both as to whether to order the publication of a summary and (if the parties do not agree) in what terms and where. Exercising the power to require a defendant to publish a summary of the Court's judgment is an interference with the defendant's Article 10 right. As such, the interference must be justified. The interference may be capable of being justified in pursuit of the legitimate aim of "the protection of the reputation or rights of others". Whether an order under this section can achieve this aim will be a matter of fact in each case. If the interference represented by a s.12 order is justified, then the Court would then consider whether (if the parties agree) the terms of the summary to be published is proportionate. The Court should only make an order that the defendant publish a summary of the Court's judgment if there is a realistic prospect that one or other of these objectives will be realised and that the publication of a summary is necessary and proportionate to these objectives.
>
> 241. There is an obvious purpose, in an appropriate case, for ordering a newspaper to publish a summary of the judgment because there is a realistic basis on which to conclude that the published summary will come to the attention of at least some of those who read the original libel and others who may have learned about the allegation via the "grapevine" effect. In a smaller scale publication, where it is possible for the original publishees (or at least a substantial number of them) to be identified, again an order requiring the publication to them of a summary of the judgment may well help realise the objectives underpinning s.12. Each case will depend upon its own facts. If the defendant has already published a retraction and apology then, depending upon its terms, that may mean that an order under s.12 is not justifiable or required. The claimant will be able to point to that to assist in his vindication or repair to his reputation."

98. In the result, Nicklin J refused to make the order sought in that case because there was no realistic prospect that ordering the defendant to publish a summary of the judgment

would cause it to come to the attention of those to whom the original libel was published.

99. In contrast, in *Serafin v Malkiewicz* [2019] EWCA Civ 852, the Court of Appeal ordered the defendants to publish a summary of its judgment in their magazine. Ms Marzec, who appeared in that case, explained that this matter was not dealt with in the judgment of the Court of Appeal because it arose in submissions after the hearing on the form of the order, and that when that case went on appeal to the Supreme Court no appeal was made in respect of this point. The Order of the Court of Appeal was included in the papers before me.

100. Ms Marzec applied for an Order that the Defendant publish a tweet (to be "pinned" for an appropriate time on his account) summarising the effect of this judgment including the damages award, and linking to the judgment on the *bailli.org* website. Ms Marzec submitted that ordering the Defendant to publish a summary of this Court's judgment on his Twitter feed will cause the judgment to come to the attention of the same people who read his original libels (albeit not all of them, because it would not directly reach those to whom the tweets were retweeted, or to the recipients of the emails complained of). She submitted: *"this is a textbook case for a s12 Order, in which such an Order is likely to be highly effective in repairing the damage to the Claimant's reputation and obtaining vindication"*.

101. Ms Marzec accepted that such an Order would constitute an interference with the Defendant's Article 10 rights to freedom of expression. However, she submitted that such interference is reasonable and proportionate in the light of the damage done by the Defendant's words to the Claimant, and is outweighed by the need to protect the Claimant's Article 8 right to reputation. The Defendant has not apologised to the Claimant and cannot be forced to do so, or to express any regret. A short statement along the following lines (which I have slightly adapted from similar wording suggested by Ms Marzec) would be no more than a factual account of the Court's actions: *"On [date] I was ordered by the High Court in London to pay Martin Glenn £X in damages for libel and harassment, plus his legal costs, on the grounds that I have made a number of false, defamatory and unlawful allegations about him. The full judgment is available here: [link]")*.

102. I accept those submissions. I therefore propose to make an Order that (a) the Defendant is to publish a summary of this judgment, (b) the Claimant and the Defendant should endeavour to agree the wording of that summary and the time, manner, form and place of its publication, and (c) if the parties cannot agree on the wording, this will be settled by the Court. (For the assistance of the parties, in the absence of any agreement to the contrary, the Court is presently minded to order the publication of a summary in the form quoted above, to continue for 3 months from the date of the Order.)

Costs

103. According to his statement of costs, the Claimant's costs for the hearing in front of me amounted to £18,953. Ms Marzec asked for summary assessment of those costs. That is plainly appropriate. I can see nothing untoward with any aspect of those costs, and the total sum claimed appears to me to be entirely reasonable and proportionate for a hearing of this nature. Therefore, considered both on an item by item basis and in

terms of the overall claim, there is no obvious reason to award the Claimant any less than the full sum. Nevertheless, because it frequently happens that some inroads are made by the paying party even in respect of modest bills, conscious of the fact that the Defendant was not there to challenge the figures, and in line with the scale of deduction which I understand to have been made by Nicklin J in respect of the costs of the hearing before him, I propose to assess these costs in the lesser sum of £17,500.

104. Ms Marzec also applied for an interim payment on account of the costs of the claim. This was one of the matters reserved to me by the Judgment Order. The Claimant's costs of the claim, over and above those which have been subject to summary assessment by Nicklin J and me, are in excess of £60,000. Again, in accordance with the usual practice of the Court, in principle an order for a payment on account is plainly appropriate. So far as concerns the amount of such a payment, there is nothing inherently unreasonable or disproportionate about costs of this level being incurred in a claim of this sort. I propose to order a payment on account in the sum of £40,000. I have no reason to doubt that the Claimant would recover this sum, at the very least, on a detailed assessment of costs on the standard basis.

Disposal

105. For these reasons: (i) the Claimant's application to increase the upper limit of the amount that is claimed in his Claim Form from £25,000 to £100,000 is allowed, (ii) the Claimant is awarded damages in the total sum of £100,000 in respect of all his causes of action for defamation and harassment against the Defendant, (iii) there is no need to grant an injunction to restrain repetition, as the Defendant has already given permanent undertakings to the Court, in the terms set out above, (iv) pursuant to s12 of the Defamation Act 2013, the Defendant is ordered to publish a summary of this Judgment, the wording of that summary and the time, manner, form and place of its publication to be agreed between the Claimant and the Defendant, and in default of agreement to be settled by the Court, (v) the Defendant must pay the Claimant's costs of the hearing before me, which are summarily assessed in the sum of £17,500; and (vi) the Defendant must pay the further sum of £40,000 on account of the Claimant's costs of the claim.

106. I will deal with the precise form of order when this Judgment is handed down. In the meantime, I should be grateful if Ms Marzec would prepare a draft form of order for consideration by the Court, and circulate the same to the Defendant in advance of the hand down.